

**Before the  
Federal Communications Commission  
Washington DC 20554**

**In the Matter of:**

	)	
Request for Review of a decision	)	
by the Schools and Libraries Division	)	Administrator Correspondence Dated
for Albany City School District	)	April 09, 2012
Albany, New York	)	
	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**Request for Review**

In accordance with Sections 54.719 through 54.721 of the Commission's Rules, Albany City School District (Albany) requests Federal Communications Commission (Commission) review of a decision of the Universal Service Administrative Company (Administrator) denying Albany's request to increase funding based on verified vendor documentation.

Requestor: Albany City School District  
Billed Entity Number: 124150  
FCC Registration Number: 0011828308  
Funding Request Number: 2237399  
Form 471 Number: 821561

**Background**

Albany, through its consultant, filed the FCC Form 471 here under appeal during the 2011 filing window. The funding request was based on invoices provided by Albany to Albany's

consultant for E-Rate eligible services. The application was reviewed and a Funding Commitment Letter issued on December 28, 2011. After filing Form 486 Albany's vendor noted that the funded amount was lower than Albany should have applied for. The actual service charges were \$7,400 per month rather than the \$1,400 per month requested on the Form 471 Block 5.

Since 2009 Albany has requested WAN services from TVC Albany (TVC). Albany requested that TVC apply discounts to E-Rate eligible services and invoice Albany the discounted amount. Beginning in 2010, TVC began invoicing Albany only the discounted amount without noting the actual non-discounted cost of service. An invoice is attached here as Exhibit 1. Typically, vendors will show the total charge for services and include a line-item for the E-Rate discount or E-Rate credit with the total amount due as the difference between total service charges and the E-Rate eligible discounted portion. The TVC invoice does not include the total cost of service on this invoice. The 2011 E-Rate application was prepared using the incomplete TVC invoice. The error was not discovered during application submission or Program Integrity Assurance review because the TVC invoice appeared to reflect the full price of monthly service.

Once a Funding Commitment Decision Letter was issued and Form 486 filed, TVC submitted a Service Provider Invoice for services rendered between July 1, 2011 and December 31, 2011 and realized the Funding Commitment would only cover the discounted portion of service charges for a fraction of the year. Upon discovery, TVC notified Albany and Albany notified its E-Rate consultant. The consultant immediately filed an appeal with the Administrator

to correct the error. The appeal was filed within 60 days of the Funding Commitment Decision Letter.

In correspondence dated April 09, 2012 the Administrator denied Albany's appeal stating: "New funding requests cannot be submitted through the appeals process. Considerations for funding requests depend on the date the FCC Form 471 is received and the amount of funds available if it is received after the close of the filing window. Consequently, USAC denied your appeal insofar as it requests funding that was not included in the FCC Form 471."

### **Discussion**

Albany disagrees with the Administrator decision on appeal based on clear Commission precedent. Contrary to the Administrator decision, Albany was not requesting a "new" funding request. Rather Albany was attempting to correct a ministerial error on an existing Funding Request allowable under several Commission orders most notably Bishop Perry which allows applicants to make corrections to applications when ministerial or clerical errors are discovered on FCC forms 470 and 471.<sup>1</sup> The Commission further clarified in the E-Rate Correction Deadline Order that corrections could be made on applications until the Administrator issues a Funding Commitment Decision Letter.<sup>2</sup>

The ministerial or clerical error in this instance was not discovered until a Funding Commitment Decision Letter had been issued and invoice submitted to the Administrator. Based on the facts presented, the error would not have been reasonably discovered during application preparation or thorough review by the Administrator because the supporting documentation inaccurately reflected the actual, non-discounted cost of service. Albany did not provide its

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<sup>1</sup> Bishop Perry Middle School, FCC 06-54, Rel. May 19, 2006 at 23.

<sup>2</sup> Correction Deadline Order, FCC 11-50, Rel. April 14, 2011 at 5.

consultant with detailed information regarding the non-discounted cost of service until the funding error was discovered. The additional documentation is attached here as Exhibit 2

In circumstances where an Administrator decision must be corrected, the Commission grants applicants a limited 60 day window to appeal adverse decisions.<sup>3</sup> Albany filed an appeal with the Administrator within 60 days of the Funding Commitment Decision Letter and files this appeal to the Commission within 60 days of the Administrator's Decision on Appeal.

Both the Administrator and Commission have precedent for granting appeals that increase Funding Commitments when errors are discovered after a Funding Commitment Decision Letter has been issued.<sup>4</sup> Northwest Ohio Educational Service Center, Application Number 789351, part of the Assabet decision requested an increase in funding for a particular FRN based on information discovered after a Funding Commitment Decision Letter was issued.<sup>5</sup>

Like Northwest, Albany did not discover the error until after a Funding Commitment Decision Letter had been issued. Like Northwest, the error could not have been reasonably discovered during application preparation or application review. Like Northwest, an appeal was timely filed with the Administrator and Commission.

Respectfully Submitted,



Anthony D. White Jr.

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<sup>3</sup> CFR Title 47, Part 54, 54.720(a)

<sup>4</sup> Loudoun County Public Schools, Application Number 662395, FRN 1862022, Appeal Wave A09, FRN modified from \$68,808.85 to \$73,024.86. and Assabet Valley Regional Vocational District, DA 12-240, Rel. February 23, 2012.

<sup>5</sup> Northwest Ohio Educational Service Center FCC appeal, CC Docket 02-6, Posted November 7, 2011.

**E-RATE CENTRAL**

**E-Rate Central/CentralEd**

400 Post Avenue, Suite 410

Westbury, NY 11590

Tel: 516-801-7804 • Fax: 516-801-7810

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# EXHIBIT 1



Your Local Link to the World

**CUSTOMER REFERRAL PROGRAM:**

Reduce your communications bill by taking advantage of the Tech Valley Communications Customer Referral Program.

Earn up to \$500 in bill credit per referral.

For more information, please contact your TVC Account Manager or call 518-598-0900 and ask for Pat Anderson, Director of Sales.



The Fiber Optic Network Powered By Tech Valley Communications

Customer	ALBANY CITY SCHOOL DISTRICT
Account Number	9525700
Billing Period Ending	12/24/10
Invoice Date	12/25/10

**Account Summary**

Previous Balance	1095.16
Payments Received	1095.16
Balance Forward	.00
Monthly Service Charge	1064.00
Other Charges & Credits	.00
Local Measured Calls	.00
Toll Charges	.00
Taxes and Surcharges	31.16
Total of Current Months Charges	1095.16
Total Amount Due	1095.16

For customer service or questions about your bill or payment call (518) 598-0940.

For sales call (518) 598-0900.

You may also e-mail us at [billing@techvalleycom.com](mailto:billing@techvalleycom.com)

Detach and return this portion with your payment. Make check or money order payable to Tech Valley Communications. Do not send cash. Please include your account number on your check.



Your Local Link to the World

For change of address check box and complete and sign on back ☐

ALBANY CITY SCHOOL DISTRICT  
ATTN: CINDY MCLEAN  
1 ACADEMY PARK  
ALBANY, NY 12207



1282

Account Number	9525700
Payment Due Date	01/13/11
Total Amount Due	1095.16
Amount Enclosed	

Remit to:  
Tech Valley Communications  
P. O. BOX 67  
Cohoes, NY 12047

10122500000095257000001095166

**E-RATE CENTRAL**

**E-Rate Central/CentralEd**  
400 Post Avenue, Suite 410  
Westbury, NY 11590  
Tel: 516-801-7804 • Fax: 516-801-7810

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## **EXHIBIT 2**

## Monthly Telephone Bill



**techvalley**  
COMMUNICATIONS

<b>Customer:</b>	ALBANY CITY SCHOOL DISTRICT
<b>Address:</b>	87 STATE ST
<b>City, State &amp; Zip</b>	ALBANY, NY 12207

<b>Remit To:</b>
TechValley Communications Inc.
P. O. Box 12696
Albany, NY 12212-2696
Phone: 518-598-0900

<b>Account Number:</b>	9525703
<b>Invoice Date:</b>	01/25/11
<b>Due Date:</b>	01/20/11
<b>Total Charge:</b>	44603.22

<b>Previous Balance:</b>	38853.25
<b>Payments:</b>	.00
<b>Balance Forward:</b>	38853.25
<b>Recurring Charges:</b>	.00
<b>Other Charges &amp; Credits:</b>	5586.00
<b>Local Measured Service:</b>	.00
<b>Regional &amp; Long Distance:</b>	.00
<b>Taxes &amp; Surcharges:</b>	163.97
<b>Total Of Current Months:</b>	5749.97
<b>Total Amount Due and Payable:</b>	44603.22

## --- Summary Of Charges ---

Fin Code	Charge Summaries	Minutes	Calls	Amount
145	Broad Band Circuit Charges			5586.00
880	Total Taxes and Surcharges .....			163.97
	<b>Total Current Charges</b>			5749.97

## ---- Tax Summary Information ----

Tax Jurisdiction	Amount
GRT 186e -----	143.07
GRT 184 -----	20.90
<b>Total Tax Amount</b>	163.97



USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037717 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037718 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037720 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037721 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037722 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037723 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037724 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037725 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037726 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037728 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037732 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037733 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037735 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037736 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037737 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037738 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037739 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00

10037740 - -

USOC	Quantity	Description	Rate	Extended Price
PTPETH	840.000	Point to Point Ethernet (per Mb)	.35	294.00
		<b>Sub-Total</b>		294.00